

**WESTERN STATES CONTRACTING ALLIANCE
WIRELESS COMMUNICATION SERVICES AND EQUIPMENT
MASTER PRICE AGREEMENT: 10-00115**

PARTICIPATING ADDENDUM

PARTICIPATING ENTITY: STATE OF WASHINGTON

This Participating Addendum (the "Participating Addendum") is made this 20th day of June, 2002, between the State of **Washington**, acting by and through the Department of Information Services, by and for its Purchasing Entities (the "State"), and AWS National Accounts, LLC, a subsidiary of AT&T Wireless ("Contractor").

Section 1. Recitals.

- 1.1 Contractor and the NMSPA, on behalf of the State of New Mexico and the participating members of WSCA, entered into that certain Western States Contracting Alliance, Wireless Communication Service and Equipment Master Price Agreement, Number 10-00115 dated July 3, 2001 (the "WSCA Master Agreement").
- 1.2 The State is a participating member of WSCA and is authorized, together with its Purchasing Entities, to purchase Services and Equipment from Contractor under the WSCA Master Agreement upon execution of this Participating Addendum.
- 1.3 Contractor and the State want to enter into this Participating Addendum to clarify certain of their respective rights and obligations under the WSCA Master Agreement.

Section 2. Agreement. In consideration of the recitals set forth in §1 above, which are hereby re-stated and agreed to by the parties, and for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the State and the Contractor hereby agree to the terms and conditions of this Participating Addendum (the WSCA Master Agreement, as modified by this Participating Addendum, together with all Purchase Orders submitted to Contractor by Purchasing Entities, collectively, the "Agreement"). Unless otherwise defined, capitalized terms in this Participating Addendum have the meanings ascribed to them in the WSCA Master Agreement.

Section 3. Authorized Purchasing Entities. The State hereby designates the following as the sole authorized Purchasing Entities under the Agreement: all Washington State agencies with properly delegated authority to purchase the Products and Services that are the subject of this Agreement, or any political subdivision (including public schools, colleges or universities) of the State or non-profit organizations with the authority to purchase such Products and Services, who have a properly executed Interlocal Cooperative Agreement (Customer Service Agreement) with Department of Information Services ("DIS").

Section 4. Purchase Orders. All Purchasing Entities issuing valid Purchase Orders will be bound by the terms and conditions of the Agreement including, without limitation, the obligation to pay Contractor for Service and Equipment provided. The State and Contractor acknowledge and agree that orders submitted to Contractor from a Purchasing Entity through the State's Business Procurement Card are authorized Purchase Orders under the Agreement.

Section 5. **Order of Precedence.** Contractor and the State acknowledge and agree that:

- (a) In the event of a conflict between the terms contained in the WSCA Master Agreement and this Participating Addendum, the terms and conditions of this Participating Addendum will control as between Contractor and the State; and
- (b) This §6 specifically supercedes §5 of the WSCA Master Agreement

Section 6. **Modified Terms and Conditions:** Contractor and State agree that certain provisions of the WSCA Master Agreement, set forth in this section 7 are modified as they apply to this Participating Addendum only.

6.1 Section 2, titled "Scope of Work", is modified such that the last sentence of the introductory paragraph thereto is deleted and replaced with the following:

Purchase Orders may be issued to purchase Service or to purchase Products listed on the Contractor's SES.

6.2 Section 6, titled "Payment Provisions" is modified as follows:

- (a) Delete the second sentence in subparagraph B (Payment of Invoice) and replace it with the following:

Payment shall be tendered to the Contractor within forty-five (45) days after purchasing entity's receipt of a properly payable invoice.

- (b) Delete the third sentence in subparagraph B (Payment of Invoice) and replace it with the following:

After the forty-fifth day from purchasing entity's receipt of a properly payable invoice, Contractor may invoice Purchaser the lesser of one percent (1%), or the highest amount allowed by State law on the amount overdue.

- (c) Add at the end of the text in subparagraph D (Invoices) the following:

The Master Price Agreement Number (10-00115) shall appear on all invoices, bills of lading, packages, and correspondence relating to this agreement.

6.3 Section 8, titled "Termination" is modified as follows:

Add after the first sentence in subparagraph A (Termination for Convenience) the following:

At any time after the first anniversary date of the Agreement, DIS may terminate its Participating Addendum, in whole or in part, by giving the Contractor thirty (30) days written notice.

6.4 Section 12, titled "Patent, Copyright, Trademark and Trade Secret Indemnification" is modified as follows:

Replace the text of subparagraph A (2), of the WSCA Master Price Agreement, with the following:

Cooperate with and agree to use its best efforts to encourage the Office of the Attorney General of Washington to grant Contractor sole control of the defense and all related settlement negotiations; and

6.5 Section 31, titled "Governing Law" is modified as follows:

Replace the text of subparagraph A with the following:

This price agreement shall be governed and the resulting price agreement construed in accordance with the laws of the Lead State. The construction and effect of this Participating Addendum or order made pursuant to the Participating Addendum and against the price agreement shall be governed by and construed in accordance with the laws of Washington State.

Venue for any claim, dispute or action concerning the construction and effect of the price agreement shall be in the Lead State. Venue for any claim, dispute or action concerning the construction and effect of the Participating Addendum or an order made pursuant to the Participating Addendum and placed against the price agreement shall be in the Superior Court of Thurston County, Washington.

6.6 Section 43, titled "Lease Agreements", is deleted.

6.7 Section 34, titled "Confidentiality" is deleted and replaced with the following:

Contractor acknowledges that any Purchasing Entity is subject to chapter 42.17 RCW and that this Agreement and Participating Addendum shall be a public record as defined in chapter 42.17 RCW. Any specific information that is claimed by Contractor to be Proprietary Information must be clearly identified as such by Contractor. To the extent consistent with chapter 42.17 RCW, Purchasing Entity shall maintain the confidentiality of all such information marked Proprietary Information. If a public disclosure request is made to view Contractor's Proprietary Information, Purchasing Entity will notify Contractor of the request and of the date that such records will be released to the requester unless Contractor obtains a court order from a court of competent jurisdiction enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, Purchasing Entity will release the requested information on the date specified.

6.8 Notwithstanding Section 51, titled "Extensions", Contractor shall not offer products or services to any Purchasing Entities not specified in Section 3.1 of this Participating Addendum except by DIS' prior written consent. All Purchases to entities listed in Section 3.1 shall be subject to the DIS Administration Fee Pursuant to Section 7.7 hereof.

Section 7. Additional Provisions

7.1 **Invoice Information:** Contractor will submit properly itemized invoices that contain the following information, as applicable:

- (a) Purchasing Entity's name and address and Purchase/Field Order number;
- (b) Contractor name, address, phone number, and Federal Tax Identification Number;
- (c) Description of Products, including price, quantity ordered, model and serial numbers;
- (d) Description of Service, including price;
- (e) Date(s) of delivery and/or date(s) of installation and set up;
- (f) Applicable discounts;
- (g) Sub-Total invoice price, excluding taxes;
- (h) DIS Contract Administration Fee;
- (i) Applicable taxes;
- (j) Total invoice price;
- (k) Payment terms, including any available prompt payment discounts.

7.2 Payment:

Each Purchasing Entity shall pay service and support charges on a monthly basis, in arrears. Incorrect or incomplete invoices will be returned by Purchaser to Contractor for correction and reissue.

7.3 Rebates:

Under no circumstances may refund or rebate incentives be given to individual Corporate Responsibility Users. Any refunds or rebates and related forms must be issued to the Purchasing Entity at the address specified on the Purchase Order or Field Order.

7.4 Publicity

The award of this Agreement to Contractor is not in any way an endorsement of Contractor or Contractor's products by DIS and shall not be so construed by Contractor in any advertising or other publicity materials. Contractor agrees to submit to DIS, all advertising, sales promotion, and other publicity materials relating to this Contract or any Product furnished by Contractor wherein the name of DIS, or a Purchasing Entity is mentioned, language is used, or Internet links are provided from which the connection of Purchasing Entity's name therewith may, in DIS' judgment, be inferred or implied. Contractor further agrees not to publish or use such advertising, sales promotion materials, publicity or the like through print, voice, the World Wide Web, and other communication media in existence or hereinafter developed without the express written consent of DIS *prior* to such use.

7.5 Industrial Insurance Coverage

Prior to performing work under this Participating Addendum, Contractor shall provide or purchase industrial insurance coverage for its employees, as may be required of an "employer" as defined in Title 51 RCW, and shall maintain full compliance with Title 51 RCW during the course of this Participating Addendum. Purchasing Entity will not be responsible for payment of industrial insurance premiums or for any other claim or benefit for Contractor, or any Subcontractor or employee of Contractor, which might arise under the industrial insurance laws during the performance of duties and services under this Participating Addendum.

7.6 Outage Notification

When Contractor receives notice from the National Operations Center (NOC) that a network outage has occurred which may affect voice, text, or data, Contractor will notify DIS by Fax or email.

7.7 DIS Administration Fee

All purchases made under this Participating Addendum are subject to a DIS Administration Fee, collected by Contractor and remitted to DIS. The Administration Fee is twenty-five cents (\$.25) per active line.

The Administration Fee shall be invoiced by Contractor to all Purchasers as a separate detailed line item on Purchaser's invoice. Contractor shall remit the Administration Fee directly to the Washington Primary Contact (Section 25 below, Washington Primary Contact) or along with the Contract Activity Report. The check shall be payable to Department of Information Services.

7.8 DIS Activity Reporting

(a) Contractor shall submit to the Washington Primary Contact a monthly Activity Report of all Equipment and Service purchases made under this Participating Addendum. The report shall identify:

- (i) This Master Price Agreement (10-00115); and
- (ii) Each Purchaser making purchases during that month; and
- (iii) The total invoice price, excluding sales tax for each Purchaser; and
- (iv) The sum of all invoice prices, excluding sales tax, for all Purchasers; and
- (v) The DIS Administration Fee.

(b) The Activity Report and the DIS Administration Fee shall be submitted by the 15th calendar day of the month following the month in which Contractor invoiced Purchaser. Contractor shall submit this report according to the layout specified by the Washington Primary Contact. This report may be corrected or modified by the Washington Primary Contact with subsequent written notice to Contractor. Monthly reports are required even if no activity occurred.

7.9 Failure to Remit Reports/Fees

Failure of Contractor to remit the Activity Report together with the Administration Fee may be considered a failure to perform on the part of Contractor, which may result in DIS terminating this Participating Addendum with Contractor. If the performance issues are resolved, DIS, at its option, may reinstate a Contractor's participation.

7.10 Marketing

Contact information for individual end users of the Services, including without limitation, names, addresses, email addresses and telephone numbers, shall not be used for the purposes of marketing non-contracted products or services, either by Vendor or third parties, without the explicit consent of such end users.

7.11 State's Primary Contact. The State's primary contact under the Agreement will be as follows:

**State of Washington
Department of Information Services
Attn: Contract Manager
PO Box 42445
Olympia, Washington 98504-2445
Telephone: 360-725-4244
Fax: 360-664-0711**

7.12. Price Agreement Number. All Purchase Orders issued by Purchasing Entities within the jurisdiction of this Participating Addendum shall include the following price agreement number: 10-00115

7.13. Additional Calling Plans. The following rate plans ("Additional Plans") will be available to the State under the contract: 1) Digital Government Plan 2 and 2) Digital Government Plan 1. The applicable rates, terms and conditions of the Additional Plans are set forth on Exhibit "A" to this Participating Addendum.

Application of the Additional Plans. The following limitations apply to the Additional Plans:

- (a) Only an Ordering Entity's Corporate Responsibility Users may receive the Additional Plans;
- (b) The Additional Plans will be available to the State for the term of this Participating Addendum, provided, however, that AWS may remove availability of any or all of these plans to new service activations upon thirty (30) days written notice to the State given at any time after November 30, 2003.
- (c) Qualified Charges incurred in connection with the Additional Plans contribute to the State's Measured Annual Service;
- (d) Qualified Charges incurred in connection with the Additional Plans do not receive any Service discount that may be available under the Agreement; and
- (e) Equipment purchased for activation in connection with the Additional Plans will receive pricing identified as "MAP Price" in the Services and Equipment Schedule, plus an additional \$75 per phone.

7.14. **Entire Agreement.** This Agreement sets forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Agreement shall not be added to or incorporated into this Agreement by any subsequent Purchase Order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Participating Addendum shall prevail and govern in the case of any such inconsistent or additional terms.

IN WITNESS WHEREOF, the parties have executed this Participating Addendum as of the date of final execution by or on behalf of the State of Washington set forth above.

Entity Name: State of Washington

Contractor:

AWS National Accounts, LLC
a subsidiary of AT&T Wireless

By: Michael D. McVicker

By: Dan Moore

Name: Michael D. McVicker

Name: Dan Moore
Director, Offer Development

Title: Assistant Director

Title: _____

Date: 6/20/02

Date: 6/14/02

Approved as to Form

State of Washington

Office of the Attorney General

Signature

Chip Holcomb

Print or Type Name

Assistant Attorney General

Title Date

Whallon, Sandra (DIS)

From: Holcomb, Chip (ATG)
Sent: Wednesday, June 19, 2002 2:08 PM
To: Whallon, Sandra (DIS)
Subject: RE: WSCA PA

Consider it approved as to form. If you need more, let me know,

Chip Holcomb
Senior Counsel, Attorney General's Office
P.O. Box 40108
905 Plum St., Bldg. 3
Olympia, WA 98504-0108
voice: (360)753-9671
fax: (360) 586-3593
email: chiph@atg.wa.gov

-----Original Message-----

From: Whallon, Sandra (DIS)
Sent: Monday, June 17, 2002 4:11 PM
To: Holcomb, Chip (ATG)
Subject: FW: WSCA PA
Importance: High

Mr. Holcolm:

Attached is a copy of the Participating Addendum for the Western States Contracting Alliance (WSCA) contract with AT&T. I have also provided a link to the WSCA – AT&T contract. Please review the Participating Addendum and approve as to form.

<http://www.state.nm.us/spd/Wwsca10115.html>

If you have any questions, please feel free to contact me.

Thank you.

Sandra Whallon
Contract Specialist
Department of Information Services
Telecommunication Services Division
Voice: 360-725-4247
E-mail: sandraw@dis.wa.gov

6/24/2002

Exhibit A

Rates, Terms and Conditions of the Additional Plans

Digital Government Plan 2 includes 0 minutes	\$4.75 monthly fee
Airtime - peak/off-peak	\$0.17/\$0.10
Long Distance Rate per minute	\$0.15
National Roaming Rate per minute	\$0.60
Washington Roaming Rate per minute	\$0.00
DIS Administrative Fee	\$0.25/month
Activation Fee	\$0.00
Cancellation Fee/Resumption Fee	\$0.00/\$25.00
Features included at no charge	Call Waiting, 3-way calling, Call Forwarding, Caller ID, Detailed Billing, Voice Mail, Text Messaging, Toll Restriction, Incoming Only, Outgoing Only
Peak Hours 6am-8pm Mon - Fri Off Peak Hours: 8pm to 6am Mon - Fri, all day Sat/Sun and listed Holidays: New Years Day, Independence Day, Thanksgiving Day, Christmas Day, Martin Luther King Day, Presidents Day, Memorial Day, Labor Day, Veterans Day	

Airtime means the per minute rate for calls placed and received when in the Home Calling Area beyond the Included Minutes. **Roaming** means the per minute rate for calls placed and received when outside of the Home Calling Area in the United States. **Regional Roaming Rate** means the airtime rate (not including long distance charges, if any) for calls placed or received while roaming within the regional coverage area. **Long Distance** means the per minute charge for long distance calls originated by the subscriber, in addition to the airtime or roaming charges. Long distance charges for calls received while roaming are calculated from the home area code to the location where the subscriber received the call.

Other Terms and Conditions of the Digital Government Plan 2. Requires a Digital multi-network phone compatible with AWS' network. AWS will be the long distance provider. Digital PCS Features require a compatible Digital multi-network phone, are only available in the Digital PCS Features Area, and may require local telephone company support, and message sender access to computer and modem. Call Waiting, 3-way Conference Calling and voice mail will incur applicable airtime, roaming and long distance charges. Call forwarding usage will be charged at a per minute rate equal to the rate for calls made after any included minutes have been used, plus applicable long distance, and will not apply toward your included minutes. Roaming and long distance charges described do not apply when a calling card, credit card, or operator assistance is used to make the call. Unused monthly included minutes cannot be carried over to any subsequent month. Rates are not available when using the Equipment outside

the United States. International long distance not included. These rate plans may not be combined with certain wireless offers and promotions offered by AWS.

Miscellaneous Fees. Reconnection Fee -- \$25 per Number, Directory Assistance - \$0.99 per call plus airtime, roaming and long distance. Fees for other services or features ordered by Customer will be provided by AWS.

Digital Government Plan 1 includes 30 anytime minutes	\$7.50 monthly fee
Airtime - peak/off-peak	\$0.18/\$0.10
Long Distance Rate per minute	\$0.15
National Roaming Rate per minute	\$0.60
Washington Roaming Rate per minute	\$0.00
DIS Administrative Fee	\$0.25/month
Activation Fee	\$0.00
Cancellation Fee/Resumption Fee	\$0.00/\$0.00
Features included at no charge	Call Waiting, 3-way calling, Call Forwarding, Caller ID, Detailed Billing, Voice Mail, Text Messaging, Toll Restriction, Incoming Only, Outgoing Only
Peak Hours 7am-6pm Mon - Fri Off Peak Hours: 6pm to 7am Mon - Fri, all day Sat/Sun and listed Holidays: New Years Day, Independence Day, Thanksgiving Day, Christmas Day, Martin Luther King Day, Presidents Day, Memorial Day, Labor Day, Veterans Day	

Airtime means the per minute rate for calls placed and received when in the Home Calling Area beyond the Included Minutes. **Roaming** means the per minute rate for calls placed and received when outside of the Home Calling Area in the United States. Regional Roaming Rate means the airtime rate (not including long distance charges, if any) for calls placed or received while roaming within the regional coverage area. **Long Distance** means the per minute charge for long distance calls originated by the subscriber, in addition to the airtime or roaming charges. Long distance charges for calls received while roaming are calculated from the home area code to the location where the subscriber received the call.

Other Terms and Conditions of the Digital Government Plan 1. Requires a Digital multi-network phone compatible with AWS' network. AWS will be the long distance provider. Digital PCS Features require a compatible Digital multi-network phone, are only available in the Digital PCS Features Area, and may require local telephone company support, and message sender access to computer and modem. Call Waiting, 3-way Conference Calling and voice mail will incur applicable airtime, roaming and long distance charges. Call forwarding usage will be charged at a per minute rate equal to the rate for calls made after any included minutes have been used, plus

applicable long distance, and will not apply toward your included minutes. Roaming and long distance charges described do not apply when a calling card, credit card, or operator assistance is used to make the call. Unused monthly included minutes cannot be carried over to any subsequent month. Rates are not available when using the Equipment outside the United States. International long distance not included. These rate plans may not be combined with certain wireless offers and promotions offered by AWS.

Miscellaneous Fees. Reconnection Fee -- \$25 per Number, Directory Assistance -
- \$0.99 per call plus airtime, roaming and long distance. Fees for other services or features ordered by Customer will be provided by AWS.

**WESTERN STATES CONTRACTING ALLIANCE
WIRELESS COMMUNICATION SERVICE AND EQUIPMENT
MASTER PRICE AGREEMENT**

10-00115

This Agreement is made and entered into by AWS National Accounts, LLC, subsidiary of AT&T Wireless ("contractor") as agent for companies that operate commercial mobile radio telecommunication systems in the geographical areas covered by this agreement ("Carriers") and the New Mexico State Purchasing Agent ("NMSPA") on behalf of the State of New Mexico and the participating members of the Western States Contracting Alliance as well as other authorized purchasers.

The parties agree as follows:

1. **Definitions**

"Advertised Plans and Prices" means locally advertised plans and prices. Such plans and/or prices shall appear on the contract's web site and available to local purchasing entities at the time of the advertisement.

"Agreement Administrator" refers to the individual appointed by the NMSPA to administer this agreement on behalf of the State of New Mexico, the participating WSCA states and other authorized purchasers.

"Announced Promotion Prices" are prices offered nationally (or to one or more states) to specific categories of customers (including WSCA Participants) for defined time periods under defined Terms and Conditions.

"Documentation" refers to manuals, handbooks, and other publications and listed in the SES or supplied with equipment listed in the SES or supplied in connection with services.

"Educational Discount Price" means the price offered nationally or to one or more states which is limited to educational customers only.

"Equipment" refers to wireless devices and accessories used to access the contractor's wireless communication services. All such equipment shall be listed in the contractor's SES.

"FCC" means the Federal Communications Commission or successor federal agency. In the event of deregulation, this term applies to one or more state regulatory agencies or other governing bodies charged to perform the same, or similar, role.

"General Price Reduction Price" means the price offered to WSCA members under the WSCA agreement at prices lower than SES pricing. Selection and pricing of General Price Reduction items shall be by mutual agreement of the parties. Either party can propose additions or deletions to the listing of General Price Reduction Items.

“Large Order Negotiated Price” means the price offered to specific procuring agencies or classes of procuring agencies under defined additional Terms and Conditions. Selection and pricing of Large Order Negotiated Prices shall be by mutual agreement of the parties. Large Order Negotiated Prices shall apply only to those items which meet the applicable additional Terms and Conditions (e.g., order quantity, time limitation, product configuration) negotiated by the parties.

“Lead State” means the State conducting the cooperative solicitation and centrally administering any resulting price agreement. New Mexico is the lead state for this price agreement.

"Lease" means an agreement approved by the participating entity that entitles procuring agencies to use contractor's equipment without rights of ownership.

“License” means a FCC document that authorizes wireless communication services in a given geographic area.

“Participating Addendum” means an bilateral agreement executed by the contractor and a Participating State or political subdivision of a State that clarifies the operation of the price agreement for the State or political subdivision concerned, e.g. ordering procedures specific to a State or political subdivision, and may add other specific language or other requirements. The terms and conditions contained in any participating addendum shall effect only the purchases of procuring agencies within the jurisdiction of the participating entity signing the participating addendum. A participating addendum shall have no effect whatsoever on any other participating addendum or the scope of this agreement. One electronic copy of each participating addendum shall be filed with the agreement administrator within five (5) days after execution.

“Participating State” or "Participating Entity" means a member of WSCA or a political subdivision of a WSCA member who has indicated its intent to participate by signing an Intent to Contract, or who subsequently signs a Participating Addendum where required, or another state or political subdivision of another state authorized by WSCA to be a party to the resulting price agreement through the execution of a participating addendum.

“Permissive Price Agreement” means that placement of orders through the price agreement is discretionary with Purchasing Entities. They may satisfy their requirements through the price agreement without using statutory or regulatory procedures (e.g. invitations for bids) to solicit competitive bids or proposals. Purchasing Entities may, however, satisfy requirements without using the price agreement so long as applicable procurement statutes and rules are followed.

“Price Agreement” means a indefinite quantity contract which requires the

contractor to furnish products or services to a purchasing entity that issues a valid purchase order.

“Purchasing Entity” means a Participating State or another legal entity, such as a political subdivision, properly authorized by a Participating State to enter into a contract for the purchase of goods described in this solicitation. Unless otherwise limited in this solicitation or in a Participating Addendum, political subdivisions of Participating States are Purchasing Entities and Participants authorized to purchase the goods and/or services described in this solicitation. For New Mexico purchasing entities include all state agencies and local public bodies. New Mexico State agency means any department, commission, council, board, committee, institution, legislative body, agency, government corporation, or educational institution. Local public body means a political subdivision of the state and the agencies, instrumentalities and institutions thereof including all cities, counties, courts and public schools.

“Products” refers to equipment and documentation or any other item furnished under this agreement but not to services.

“Purchase Order” means an electronic or paper document issued by the purchasing entity which directs the contractor to deliver products or services pursuant to this agreement.

“Servicing Subcontractors” refers to contractor authorized subcontractors who may be assigned by the contractor to provide products or services for a purchasing entity. The applicable participating addendum shall include a list of potential servicing subcontractors authorized by contractor to provide products or services in a given geographic region.

"Services" means any FCC licensed or authorized wireless services. This includes the transmission of voice, data or video content as well as optional two-way radio, messaging, voice mail, Internet access and/or related services. Wireless device maintenance, training and technical support services are included.

"Services and Equipment Schedule" or "SES" refers to a complete list, grouped by major product categories, of the services and products provided by the contractor which consists of an item number, item description and the Purchasing entity's price for each service or product or service. Such schedule shall be established and maintained on the contractor's Internet web site.

"Service and Equipment Schedule (SES) Prices" mean the prices offered to purchasing entities exclusive of Announced Promotional Prices, Education Discount Prices, General Price Reductions, or Large Order Negotiated Prices.

“WSCA” means the Western States Contracting Alliance, a cooperative group

contracting consortium for state government departments, institutions, agencies and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) in the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington and Wyoming. The WSCA directors may authorize the use of the price agreements by any state or political subdivision of a state subject to the approval of the local state director and appropriate statutory authority.

2. Scope of Work

The contractor shall deliver wireless communication services and products to procuring agencies in accordance with the terms of this agreement. This Agreement is a “price agreement”. Accordingly, the contractor shall provide services or products only upon the issuance and acceptance by contractor of valid “purchase orders”. Purchase orders may be issued to purchase services or to purchase or lease products listed on the contractor’s SES.

- A. A purchasing entity may purchase or lease any quantity of product or service listed in the contractor’s SES at the prices stated therein. For large orders, contractor and purchasing entity may negotiate quantity price discounts below the SES price(s) for a given purchase order.
- B. Contractor may offer authorized educational institutions educational price discounts that result in prices below the SES listed prices.

3. Title Passage

Title to purchased equipment shall pass to the purchasing entity upon acceptance.

4. Permissive Price Agreement and Quantity Guarantee

This agreement is not a non-exclusive permissive price agreement. Purchasing entities may obtain wireless communication services and equipment from other sources during the agreement term. The NMSPA and WSCA make no express or implied warranties whatsoever that any particular number of purchase orders will be issued or that any particular quantity or dollar amount of products or services will be procured.

5. Order of Precedence

Each purchase order that is accepted by the contractor will become a part of the agreement as to the products and services listed on the purchase order only; no additional terms or conditions will be added to this agreement as the result of acceptance of a purchase order. In the event of any conflict among these documents, the following order of precedence shall apply:

- A. the terms and condition of this agreement;
- B. exhibits to this agreement;
- C. executed participating addendum(s);
- D. the list of products and services contained in the purchase order including any service, lease or maintenance agreements;
- E. the request for proposals document 10-00115 ; and
- F. contractor's proposal including best and final offer.

6. Payment Provisions

All payments under this agreement are subject to the following provisions:

A. Acceptance

A purchasing entity shall determine whether all services and products delivered meet the contractor's published specifications. No payment shall be made for any products or services until the services and products have been accepted in writing by the purchasing entity. Unless otherwise agreed upon between the purchasing entity and the contractor, within fifteen (15) days from the date the purchasing entity receives written notice from the contractor that payment is requested for services or within fifteen (15) days from the receipt of products, the purchasing entity shall issue a written certification of complete or partial acceptance or rejection of the products or services.

B. Payment of Invoice

Payments shall be submitted to the contractor at the address shown on the invoice. Payment shall be tendered to the contractor within thirty (30) days of the date of certification. After the thirtieth day from the date that written certification of acceptance is issued, interest shall be paid on the unpaid balance due to the contractor at the rate of one and one-half percent per month. The purchasing entity shall make a good-faith effort to pay within thirty (30) days after date of certification. Payments may be made via a purchasing entity's "Purchasing Card".

In the event an order is shipped incomplete (partial), the purchasing entity must pay for each shipment as invoiced by the contractor unless the purchasing entity has clearly specified "No Partial Shipments" on each purchase order.

C. Payment of Taxes

Payment of taxes for any money received under this agreement shall be the contractor's sole responsibility and shall be reported under the contractor's

federal and state tax identification numbers. If a purchasing entity is not exempt from sales, gross receipts, or local option taxes for the transaction, the contractor shall be reimbursed by the purchasing entity to the extent of any tax liability assessed.

D. Invoices

Invoices shall be submitted to the purchasing entity.

7. Agreement Term

The agreement is effective on July 1, 2001 for a term of three (3) calendar years and may be mutually renewed for two (2) additional one-year terms unless terminated pursuant to the terms of this agreement. In no event shall this agreement remain in effect longer than five (5) years from the effective date.

8. Termination

The following provisions are applicable in the event that the agreement is terminated.

A. Termination for Convenience

At any time, the NMSPA may terminate this agreement, in whole or in part, by giving the contractor (30) days written notice; provided, however, neither the NMSPA nor a purchasing entity has the right to terminate a specific purchase order for convenience after it has been issued if the product is ultimately accepted. At any time, contractor may terminate this agreement, in whole or in part, by giving the agreement administrator thirty (30) days written notice. Such termination shall not relieve contractor of warranty or other service obligations incurred under the terms of this agreement.

B. Termination for Cause

Either party may terminate this agreement for cause based upon material breach of this agreement by the other party, provided that the non-breaching party shall give the breaching party written notice specifying the breach and shall afford the breaching party a reasonable opportunity to correct the breach. If within thirty (30) days after receipt of a written notice the breaching party has not corrected the breach or, in the case of a breach which cannot be corrected in thirty (30) days, begun and proceeded in good faith to correct the breach, the non-breaching party may declare the breaching party in default and terminate the agreement effective immediately. The non-breaching party shall retain any and all other remedies available to it under the law.

C. A Purchasing entity's Rights

In the event the agreement expires or is terminated for any reason, a purchasing entity shall retain its rights in all products and services accepted prior to the effective termination date.

D. The Contractor's Rights

In the event the agreement expires or is terminated for any reason, a purchasing entity shall pay the contractor all amounts due for products and services ordered and accepted prior to the effective termination date or ordered before the effective termination date and ultimately accepted.

9. Non-Appropriation

A. The terms of this agreement and any purchase order issued for multiple years under this agreement is contingent upon sufficient appropriations being made by the Legislature or other appropriate governing entity. Notwithstanding any language to the contrary in this agreement or in any purchase order or other document, a purchasing entity may terminate its obligations under this agreement, if sufficient appropriations are not made by the governing entity to pay amounts due for multiple year agreements. The purchasing entity's decision as to whether sufficient appropriations are available shall be accepted by the contractor and shall be final and binding.

B. A purchasing entity shall provide sixty (60) days notice, if possible, of its intent to terminate for non-appropriation. Such termination shall relieve the purchasing entity, its officers and employees from any responsibility or liability for the payment of any further amounts under the relevant purchase order.

10. Shipment and Risk of Loss

A. Contractor shall ship all products F.O.B. destination. Risk of loss or damage to the products shall pass to the purchasing entity upon delivery to the purchasing entity. Contractor agrees to assist the purchasing entity with the processing of claims for such loss or damage and to expedite the processing of claims for such loss or damage and to expedite replacement of lost or damaged products. Destination charges shall be included in the product price on the SES.

B. Whenever a purchasing entity does not accept any product and returns it to the contractor, all related documentation furnished by the contractor shall be returned also. The contractor shall bear all risk of loss or damage with

respect to returned products except for loss or damage directly attributable to the negligence of the purchasing entity.

Unless otherwise agreed upon by the purchasing entity, the purchasing entity will deliver returned products to the contractor's closest business location at the expense of the purchasing entity.

- C. Unless otherwise arranged between the purchasing entity and contractor, all shipments of products shall be shipped second day delivery by certified carrier.

11. Wireless Program Description

- A. Service will be provided by contractor in accordance with the AWS Wireless Services Program, Information Navigator and Extranet Advantage program descriptions, attached.
- B. The parties acknowledge and agree that the attached program descriptions may be modified by contractor, from time to time, with the prior approval of the agreement administrator. Such approval shall not be unreasonably withheld.

12. Patent, Copyright, Trademark and Trade Secret Indemnification

- A. The contractor shall defend, at its own expense, the State of New Mexico, WSCA, participating entities and purchasing entities against any claim that any product or service provided under this agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against a purchasing entity based upon the contractor's trade secret infringement relating to any service provided under this agreement, the contractor agrees to reimburse the State for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the State of New Mexico, participating entity or purchasing entity shall:
 - 1. give the contractor prompt written notice of any claim;
 - 2. allow the contractor to control the defense or settlement of the claim; and
 - 3. cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.

- B. If any service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its option and expense:
1. provide a purchasing entity the right to continue using the service;
 2. replace or modify the service so that it becomes non-infringing; or
 3. terminate the service and refund an amount equal to the depreciated value of the returned product, less the unpaid portion of the purchase price and any other amounts which are due to the contractor.
- C. To the extent allowed by law, contractor agrees to pass-through to purchasing entity any manufacturer warranties.

13. Price Guarantees

The procuring agencies shall pay the lower of the prices contained in the SES or an announced promotion price, educational discount price, general price reduction price or large order negotiated price. Only general price reduction price decreases will apply to all subsequent orders accepted by contractor after the date of the issuance of the revised prices. Contractor agrees to maintain SES service and product prices in accordance with the volume price discount guarantees filed with the agreement administrator.

14. Services and Equipment Schedule

The contractor agrees to maintain the SES in accordance with the following provisions:

- A. The SES prices for products and services will conform to the guaranteed prices discount levels.
- B. The contractor may change the price of any product or service at any time without prior written notice, based upon list price changes, but the guaranteed price discount levels shall remain unchanged during the agreed period.
- C. The contractor may make service and product model changes, add new services or products, product upgrades or services to the SES at any time and the pricing for the same shall incorporate, to the extent possible, similar or comparable price discount levels provided herein, as agreed by the parties.
- D. The contractor agrees to delete obsolete and discontinued products from the SES on a timely basis.

- E. Major service or product model changes shall be incorporated in the SES as soon as possible after the announcement. In conjunction therewith or as soon as possible, the parties shall negotiate a price discount level for the new services or products as comparable as possible to the price discount level contained in the SES for similar services or products.
- F. The SES shall be maintained by the contractor on an Internet web site provided by the contractor.

15. Product Substitutions

Contractor may make product substitutions either to the internal system components, options or accessories as long as the substitute item is the same or better technology at the same or lower price. Delivery order modifications will not be required. The invoice will reflect the actual product shipped NOT the product ordered. To effect administrative savings, procuring agencies are instructed to make payments in accordance with this paragraph without requiring a delivery order modification. The following note will appear on the invoice.

"In accordance with the Product Substitutions paragraph in the Master Price Agreement, contractor has substituted a product on this order. The substitution is the same or better technology at the same or lower price."

16. Technical Support

The contractor agrees to maintain a toll-free technical support telephone line. The line shall be accessible to purchasing entity personnel who wish to obtain competent technical assistance regarding the operation of products supplied by the contractor.

17. Termination of a Purchase Order

Notwithstanding any language to the contrary in this agreement or in any purchase order or other document, a purchasing entity may terminate its obligations under this agreement, or any extension thereof, for convenience by giving contractor sixty (60) days written notice of its intent to terminate a purchase order. The purchasing entity shall pay for the services rendered and accepted prior to the date of termination. Such termination shall relieve the purchasing entity, the purchasing entity's State, and its officers and employees from any responsibility or liability for the payment of any further amounts under the relevant purchase order. Procuring agencies may not terminate a purchase order for convenience in order to acquire functionally equivalent product(s) or services from a third party.

18. Services and Product Delivery

Contractor agrees to activate wireless services and deliver products to procuring agencies within five (5) business days after receipt of a valid purchase order.

19. Impracticality of Performance

A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

20. Records and Audit

Contractor agrees to maintain detailed records pertaining to the price of services rendered and products delivered for a period of three years from the date of acceptance of each purchase order. These records shall be subject to inspection by the purchasing entity and appropriate governmental authorities within the purchasing entity's state. The purchasing entity shall have the right to audit billings either before or after payment. Payment under this agreement shall not foreclose the right of the purchasing entity to recover excessive or illegal payments.

21. Independent Contractor

The contractor and its agents and employees are independent contractors and are not employees of the State of New Mexico or any participating entity. The contractor has no authorization, express or implied to bind the State of New Mexico, WSCA or any participating entity to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for the State of New Mexico, WSCA, or participating entity, except as expressly set forth herein. The contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico or participating entity as a result of this agreement.

22. Use of Subcontractors

The contractor may subcontract communication services as well as installation, training, warranty or maintenance services. However, the contractor shall remain solely responsible for the performance of this agreement. All purchasing entity payments for products or services shall be made directly to the contractor. If subcontractors are to be used, the name of the authorized subcontractor(s) shall be identified in the applicable participating addendum(s).

23. Indemnification

The contractor shall hold the State of New Mexico, participating entities and its agencies and employees harmless and shall indemnify the State of New Mexico, participating entities and its agencies and employees against any and all claims, suits, actions, liabilities and costs of any kind, including attorney's fees for personal injury or damage to property arising from the acts or omissions of the contractor, its agents, officers, employees or subcontractors. Contractor shall not be liable for damages that are the result of negligence by the State of New Mexico, the participating entities, their respective agencies, and/or their respective employees.

24. Amendments

The agreement shall only be amended by written instrument executed by the parties.

25. Scope of Agreement

This agreement incorporates all of the agreements of the parties concerning the subject matter of this agreement, and all prior agreements have been merged into this agreement. No prior agreements, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

26. Invalid Term or Condition

If any term or condition of this agreement shall be held invalid or unenforceable, the remainder of this agreement shall not be affected and shall be valid and enforceable.

27. Enforcement of Agreement

A party's failure to require strict performance of any provision of this agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

28. Web Site Maintenance

Contractor agrees to maintain and support a contractor supplied Internet website for access to the SES, service selection assistance, problem resolution assistance, product descriptions, product specifications, coverage description and other aides in accordance contractors proposal. In addition, contractor agrees to provide electronic commerce assistance for the electronic submission of purchase orders, purchase order tracking, payment by purchase card and reporting by September 30, 2001.

29. Equal Opportunity Compliance

The contractor agrees to abide by all applicable laws, regulations, and executive orders pertaining to equal employment opportunity, including federal laws and the laws of the state in which it's primary place of business is located. In accordance with such laws, regulations, and executive orders, the contractor agrees that no person in the United States shall, on the grounds of race, color, religion, national origin, sex, age, veteran status or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed by the contractor under this agreement. If the contractor is found to be not in compliance with these requirements during the life of this agreement, the contractor agrees to take appropriate steps to correct these deficiencies.

30. Limitation of Liability

The contractor's liability to a purchasing entity for any cause whatsoever shall be limited to the purchase price paid to the contractor for the products and services that are the subject the purchasing entity's claim. The foregoing limitation does not apply to Paragraphs 12 and 23 of this agreement or to damages resulting from personal injury caused by the contractor's negligence. In no event shall the contractor be liable for any indirect, special or consequential damages arising out of this agreement or the use of the products purchased by the purchasing entity hereunder, even if the contractor has been advised of the possibility of such damages.

31. Governing Law

- A. This price agreement shall be governed and the resulting price agreement construed in accordance with the laws of the lead state. The construction and effect of any participating addendum or order against the price agreement shall be governed by and construed in accordance with the laws of the purchasing entity's state. Venue for any claim, dispute or action concerning the construction and effect of the price agreement shall be in the Lead State. Venue for any claim, dispute or action concerning an order placed against the price agreement or the effect of a participating addendum or shall be in the purchasing entity's state.
- B. The New Mexico Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and misdemeanor criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kick-backs.

32. Change in Contractor Representatives

Contractor shall appoint a primary representative to work with the agreement administrator to maintain, support and market this agreement. The NMSPA reserves the right to require a change in contractor's then-current primary representative if the

assigned representative is not, in the opinion of the NMSPA, serving the needs of the State of New Mexico and the participating entities adequately.

33. Release

The contractor, upon final payment of the amount due under this agreement, releases the NMSPA, State of New Mexico and participating entities' officers and employees, from all contractual liabilities, claims and obligations whatsoever arising from or under this agreement. The contractor agrees not to purport to bind the State of New Mexico or any participating entity to any obligation, unless the contractor has express written authority to do so, and then only within the strict limits of the authority.

34. Confidentiality

Any confidential information provided to or developed by the contractor in the performance of this agreement shall be kept confidential and shall not be made available to any individual or organization by the contractor without the prior written approval of the participating entity.

35. Conflict of Interest

The contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this agreement.

36. Replacement Parts

Replacement parts may be refurbished.

37. FCC Certification

The contractor agrees that equipment supplied by the contractor meets all applicable FCC Certifications. Improper, falsely claimed or expired FCC certifications are grounds for termination.

38. Licensing

Contractor agrees to not to provide services or products to any governmental entities in a geographic area for which contractor does not have appropriate FCC licenses or other appropriate authorizations.

39. Assignment

The contractor shall not assign, sell or transfer any interest in this agreement or assign any claims for money due or to become due under this agreement without the prior written

approval of the NMSPA , which approval shall not be unreasonably withheld. Contractor shall not sublet rights or delegate responsibilities without prior written approval of the agreement administrator.

40. Agreement Administrator

The NMSPA shall appoint an agreement administrator whose duties shall include but not be limited to the following:

- A. The administrator shall provide instructions concerning the contents of the contractor's website.
- B. The administrator will facilitate dispute resolution between the contractor and procuring agencies. Unresolved disputes shall be presented to the NMSPA for resolution.
- C. The administrator shall promote the use of the agreement by WSCA members and other participating entities.
- D. The administrator shall advise the NMSPA regarding the contractor's performance under the terms and conditions of the agreement.
- E. The administrator shall receive and approve quarterly price agreement utilization reports and the administration fee payments.
- F. The administrator shall periodically verify the service and product prices in the SES conform with the contractor's volume price guarantees. The administrator may appoint an auditor to perform this task.

41. Reserved

42. Survival

Certain paragraphs of this agreement including but not limited to Patent, Copyright, Trademark, and Trade Secret Indemnification; Indemnification; and Limit of Liability shall survive the expiration of this agreement. Wireless service agreements, equipment lease agreements, warranty and maintenance agreements that were entered into under the terms and conditions of this agreement shall survive this agreement.

43. Lease Agreements

Contractor may lease equipment to procuring agencies in accordance with terms and conditions approved by the appropriate governing authority for the purchasing entity's jurisdiction. Such approval shall be indicated in the participating addendum.

44. Succession

This agreement shall be entered into and be binding upon the successors and assigns of the parties.

45. Notification

Either party may give written notice to the other party in accordance with the terms of this paragraph 45. Any written notice required or permitted to be given hereunder shall be deemed to have been given on the date of delivery if delivered by personal service or hand delivery or three business days after being mailed.

To NMSPA:

New Mexico State Purchasing Agent
Purchasing Division
Joseph M. Montoya State Building, Room 2016
1100 St. Francis Drive
Santa Fe, New Mexico 87505 or
P.O. Drawer 26110
Santa Fe, New Mexico 87502-0110

To Contractor:

AWS Business Marketing
P.O. Box 97061
Redmond, Washington 98073-9761

Either party may change its representative or address above by written notice to the other in accordance with the terms of this Paragraph 45. The carrier for mail delivery and notices shall be the agent of the sender.

46. Administration Reporting and Fees

The contractor agrees to provide periodic price agreement utilization reports to the agreement administrator in accordance with the following schedule:

<u>Period End</u>	<u>Report Due</u>
June 30	July 31
September 30	October 31
December 31	January 31
March 31	April 30

The periodic report shall include the gross revenue (equipment purchases, service fees,

lease and maintenance agreement payments) for the period subtotaled by purchasing entity name or identifying number, within the purchasing entity's state name. The periodic report shall include the total active lines in operation at the end of the period subtotaled by purchasing entity name, within purchasing entity's state name.

The report shall be accompanied with a check payable to Western States Contracting Alliance for an amount equal to one-tenth of one percent (0.0010) of the gross revenue for the period.

The reports and checks shall be addressed and delivered as follows:

Mr. Terry Davenport
Purchasing Division, Room 2016
1100 St. Francis
Santa Fe, New Mexico 87505

Mr. Terry Davenport
Purchasing Division
P. O. Drawer 26110
Santa Fe, New Mexico 87502-0110

The failure to file the utilization reports and fees on a timely basis shall constitute grounds for the removal of the contractor's primary representative, suspension of the price agreement or termination of the price agreement for cause.

47. Credit Handling

The contractor agrees to credit procuring agencies for service outages/overloads in accordance with the following procedures.

- A. The purchasing entity should contact the contractor as soon as possible after they are alerted to the problem for quick resolution.
- B. The purchasing entity needs to provide the following information; called number, the service subscribed to, the difficulty experienced, and the approximate time the call was placed.
- C. The credit will be issued by the contractor's customer service representative and will appear on the procuring agencies' next monthly invoice as a line item on a separate page exclusively for credits. The contractor can also instruct the purchasing entity to deduct the credit amount from their current invoice if that would be more in line with the procuring agencies' satisfaction and requirements.
- D. A credit memo will be sent to the procuring agencies' billing manager by the contractor and will contain the following information;

- Credit Date of Issue
- Bill payer Number credit was applied to
- The invoice number and date

- Reason for Credit
- Amount of credit issued

48. Default and Remedies

- A. Any of the following shall constitute cause to declare the contract or any order under this contract in default:
 - (1) Nonperformance of contractual requirements; or
 - (2) A material breach of any term or condition of this contract.
- B. A written notice of default, and an opportunity to cure, shall be issued by the party claiming default, whether the lead state (in the case of breach of the entire agreement), a participating state (in the case of a breach of the participating addendum), the purchasing entity (with respect to any order), or the contractor. Time allowed for cure shall not diminish or eliminate any liability for liquidated or other damages.
- C. If the default remains after the opportunity for cure, the non-defaulting party may:
 - (1) Exercise any remedy provided by law or equity;
 - (2) Terminate the contract or any portion thereof, including any orders issued against the contract;
 - (3) Impose liquidated damages, as specified in the solicitation or contract;
 - (4) In the case of default by the contractor, and to the extent permitted by the law of the Participating State or Purchasing Entity, suspend contractor from receiving future solicitations.

49. Audits

- A. The contractor agrees to assist the agreement administrator or designee with web site product and pricing audits based on mutually acceptable procedures.
- B. The contractor agrees to assist participating states with invoice audits to ensure that the contractor is complying with the agreement in accordance with mutually agreed procedures set forth in the participating addendum.

50. Fraud

The contractor agrees to proactively monitor calling volumes and patterns. The contractor shall immediately report unusual calling volumes and patterns to the purchasing entity that is invoiced for the airtime. Should the purchasing entity's representative declare such activity as fraudulent, the contractor will immediately deactivate the service.

51. Extensions

Unless prohibited by provision in a participating addendum, contractor may, at the sole discretion of contractor, offer wireless services to non-profit organizations, religious schools, government employees and students within the governmental jurisdiction of the entity completing the participating addendum with the understanding that the governmental entity has no liability whatsoever concerning the equipment or for payment of services. It is further understood that the contractor is under no obligation to report the revenue or pay an administration fee on the sales from such organizations and individuals.

52. E-Rate Program

Contractor agrees to participate in the Federal Communications Commission's E-rate discount program established pursuant to the Telecommunications Act of 1996, in accordance with the Schools and Libraries Division (SLD) of the Universal Service Administration Corporation (USAC) requirements.

53. Connectivity

Contractor is currently unable to program/reprogram wireless devices to support connectivity to designated long distance telephone service carriers.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date of execution by the New Mexico State Purchasing Agent, below.

State of New Mexico
State Purchasing Agent

By: Louis T. Higgins

Louis T. Higgins

Date: 6.29.2001

Contractor

AT&T Wireless Services National Accounts, LLC

By: [Signature]

Title: Natl D/L Strategic Offer

Date: 6/22/01

AT&T Wireless Information Navigator® Advantage Attachment

1. **Definitions.** These following capitalized terms will have the meanings set forth below:

1.1 **“Documentation”** means the user manual(s) and other printed or on-line help materials accompanying each delivery of WIN Advantage.

1.2 **“Foundation Account Number”** means an account number assigned by contractor to Purchasing Entity for billing purposes that include no fewer than 50 Corporate Responsibility Users.

1.3 **“Product Support”** means a service whereby contractor shall provide telephonic, technical product support on WIN Advantage for up to three (3) of Purchasing Entity’s registered individuals.

2. **License.**

2.1 **Grant of License.** Contractor grants to Purchasing Entity a non-exclusive, non-transferable license to use WIN Advantage pursuant to the terms and conditions of the Agreement (the “License”).

2.2 **Authorized Use.** Purchasing Entity may use WIN Advantage on up to ten (10) computer terminals for the sole purpose of using the Reports and Tools.

2.3 **Restrictions.** Purchasing Entity will not (a) use WIN Advantage on a network; (b) modify, translate, disassemble, decompile, reverse engineer or in any other way derive any source code from WIN Advantage, nor will it merge WIN Advantage with another computer program; (c) use WIN Advantage in the operation of a service bureau; (d) sell, license, publish, display, distribute, or otherwise transfer WIN Advantage or any copy thereof, in whole or in part, to a third party; nor (e) export WIN Advantage outside of the United States, without contractor’s prior, written consent.

2.4 **Compact Discs and Copies.** At no charge, Purchasing Entity will receive one (1) WIN Advantage compact disc per month for each of its Foundation Account Numbers. Upon Purchasing Entity’s request, contractor will provide Purchasing Entity additional WIN Advantage compact discs for Purchasing Entity’s current or prior month’s information for \$25 each. Purchasing Entity, solely to enable it to use WIN Advantage, may make one archival copy of WIN Advantage as part of its usual software back-up procedures. Purchasing Entity will have no other right to copy WIN Advantage. Any copies of WIN Advantage made by Purchasing Entity are the exclusive property of contractor.

2.5 **Ownership.** Purchasing Entity acknowledges and agrees that nothing in the Agreement conveys or provides Purchasing Entity with an ownership interest in and to WIN Advantage, and Purchasing Entity agrees to make no claim of ownership in and to WIN Advantage.

2.6 **Modifications and Reverse Engineering.** Purchasing Entity acknowledges and agrees that only contractor will have the right to alter, modify, maintain, enhance or otherwise modify WIN Advantage.

3. **Installation and Product Support.**

3.1 Initial Installation and Training. Initial installation of WIN Advantage and up to four (4) hours of initial training on WIN Advantage will be provided by contractor to Purchasing Entity at no charge.

3.2 Product Support. Contractor will provide Product Support to Purchasing Entity at no charge for three (3) months following completion of the initial installation. After this three-month period expires, contractor will provide Purchasing Entity with Product Support based upon a per call fee. Purchasing Entity will pay \$90 per hour for this Product Support, pro rated, with a ten (10) minute minimum charge for each such call placed by Purchasing Entity. Contractor reserves the right to change the fee for this time-based Product Support at any time.

4. Incorporation of Agreement. The terms, conditions and defined terms set forth in all documents comprising the Agreement (including, without limitation, this Attachment, the Cover Page, the Program Description, together with any additional attachments thereto, and the General Terms and Conditions) apply throughout all such documents.

AT&T Wireless Program Description

1. Service.

1.1 Provision of Service. Contractor, through companies that operate commercial mobile radio telecommunications systems in the geographic areas covered by the Agreement ("Carriers"), will provide commercial mobile radio Services more particularly described in the Agreement ("Service") to the Purchasing Entities and their respective W-2 employees who either (a) receive Service under the Purchasing Entity's account ("Corporate Responsibility Users") or (b) receive Service under individual accounts in accordance with the Employee Benefit Program described herein ("Individual Responsibility Users") (at times, Corporate Responsibility Users and Individual Responsibility Users are referred to together as "End Users"). Service includes wireless voice telecommunications services ("Voice Service") and wireless data telecommunications services ("Wireless Data Service"). Contractor provides for Service to Purchasing Entities through Equipment that accesses contractor's TDMA and/or CDPD network.

1.2 Availability/Interruption. Service will be available only within the operating range of each Carrier's wireless system ("Service Area"). Contractor may from time to time add or delete Service Areas upon written notice to NMSPA. Service is subject to: (a) transmission limitation, reduction in transmission speed, or interruption caused by weather, your Equipment, terrain, obstructions such as trees or buildings, and other conditions; (b) temporary suspension due to governmental regulations or orders, system capacity limitations, system repairs or modifications, or contractor's efforts to combat potential fraud; (c) interruption for nonpayment of charges by any Purchasing Entity; and (d) call blocking for certain categories of numbers (e.g., 976, 900 and certain international destinations) or access to certain websites if, in contractor's sole discretion, contractor is experiencing excessive billing, collection or fraud problems with access to those numbers or sites.

2. Payment.

2.1 Charges. Each Purchasing Entity will pay: (a) Service charges for all calls processed through Numbers and all actual kilobytes transmitted through the Equipment (even if the connection is dropped or the data is not actually received) including, without limitation, local airtime charges, long distance charges, features charges, and roaming charges; (b) Equipment charges; and (c) any applicable federal, state and local sales, public utilities, gross receipts, or other taxes, surcharges, assessments, recoveries or fees imposed upon such Purchasing Entity, contractor, or a Carrier as a result of the purchase or use of Equipment or Service under this Agreement, except taxes based on contractor's or the Carrier's net income. Specific charges may differ by Service Area. Contractor will charge 800, 866, 877, 888 and other "toll free" calls at domestic airtime or roaming rates. Each Purchasing Entity may receive a separate bill for some long distance charges. Due to delayed reporting between Carriers, Service usage may be billed in a subsequent month and this usage will be charged as if used in the month billed. Billing cycle end dates may change from time to time. For rate plans where a billing cycle covers less than or more than a full month, contractor may make reasonable adjustments and prorations.

2.1.1 Purchasing Entities Tax-Exempt Status. With respect to §2.1(b) of this Program Description, and §6 (c) above, contractor acknowledges that certain Purchasing Entities may be tax-exempt. Contractor will accord the proper tax-exempt status to each Purchasing Entity that properly establishes such status. Notwithstanding this tax-exempt status, each Purchasing Entity shall pay: (a) any taxes not covered by its tax-exempt status; and (b) any and all regulatory fees, assessments and charges including, without limitation, universal service fees and all other similar, government-imposed fees, assessments and/or charges that the Purchasing Entity may be legally subject to as a result of the purchase or use of Service under this contract.

2.2 Voice Service. The length of a call is measured during the time that the End User is connected to the wireless system, which is approximately from the time the End User presses "Send" or

another appropriate key to initiate or answer a call until approximately the time the End User presses "End" or another appropriate key to terminate the call. Airtime usage on each call is billed in full minute increments, with partial minutes of use rounded up to the next, and charged as a, full minute. If an incoming call has been forwarded to another phone number, the Purchasing Entity will be charged for the entire time that the switch handles the call. For calls made from or received in the End User's local area, Purchasing Entity will not be charged for busy or unconnected calls if the End User presses "End" or "No" within a reasonable time. If Equipment is used as a pager, the Purchasing Entity will be charged for messages as described in the selected rate plan. If a selected calling plan or rate plan includes a predetermined allotment of services (for example, a predetermined amount of airtime, data, or text messages), unused allotment of such services from one billing cycle will not carry over to any other billing cycle.

2.3 Wireless Data Service. Unless the selected Wireless Data Service rate plan provides otherwise, Wireless Data Service usage is aggregated over a billing cycle, with any partial kilobyte of data used in that billing cycle being rounded up to a full kilobyte.

3. AT&T Wireless Program Eligibility Requirements. Participating Entity must at all times meet the following program eligibility requirements throughout the term of the Agreement in contractor markets set forth in the Agreement ("Contractor Markets").

3.1 Minimum Subscription Requirement. Participating Entity must have at least fifty (50) separate End Users subscribing to Service at all times. If contractor reasonably determines that a Participating Entity will not achieve this subscription level within ninety (90) days of the date of the Agreement or will not maintain this subscription level during the term of this agreement, then that Participating Entity will be in default under §8B of this agreement; provided, however, that for purposes of breach of this section only, the notice period will be sixty (60) days.

3.2 Minimum Revenue Requirement. Participating Entity must use a volume of Service such that contractor will realize service revenue for Qualified Charges, as defined in §4.1 below ("Service Revenue") of at least \$45,000 per term year. If Participating Entity fails to achieve this revenue requirement in any term year, then that Participating Entity will be in default under §8B of this Agreement.

4. Service Discount. Contractor will provide Service to each Participating Entity with pricing and discounts applied in accordance with the Service and Equipment Schedule. This "Service Discount" is applied to a rate plan's Qualified Charges only. Contractor is not liable for any damages resulting from any failure by contractor or its billing vendors to properly calculate and apply the Service Discount. Contractor and Purchasing Entity will reconcile any miscalculation on the following month's invoice.

4.1 "Qualified Charges" For the purpose of determining the amounts against which the Service Discount is applied, the following undiscounted Service charges are "Qualified Charges": (a) one-time charges for Service activation and conversion, (b) monthly wireless access charges, (c) home wireless airtime charges, (d) roaming airtime charges incurred by Numbers provisioned from Contractor Markets while roaming in other Contractor Markets, (e) charges for detail billing, (f) charges for tethering, and (g) charges for additional wireless service features such as voice mail, but excluding enhanced features such as directory assistance or fee-based information services where contractor or Carrier pays a fee to a third-party vendor for use of the feature. To the extent there is any material conflict between the definition of Qualified Charges set forth in this §4.1, and any other reference to charges against which the Service Discount might apply found elsewhere in this Agreement, the definition set forth in this §4.1 will control.

4.2 "Non-Qualified Charges" refers to the following charges to which the Service Discount will not apply: (a) charges for long distance service, (b) all charges for local landline interconnect, toll services and other charges arising from or related to wireless operators providing long distance service, (c) all charges for Equipment, (d) roaming charges in areas other than Contractor Markets, (e) all taxes, and (f) all other charges not described in §4.1 above, including without limitation recoveries for universal service assessments.

5. **Equipment Pricing.** Contractor will provide Purchasing Entity Equipment pursuant to the SES.

6. **AT&T Employee Benefit Program ("Employee Benefit Program").** Purchasing Entities' current W-2 employees may participate in the Employee Benefit Program. All such W-2 employees participating in the Employee Benefit Program will be Individual Responsibility Users under the contract.

6.1 **Employee Benefit Program Requirements.** Each Individual Responsibility User participating in the Employee Benefit Program: (a) must enter into and be individually responsible for complying with a separate agreement with contractor for Service and Equipment (an "IRU Service Agreement") including, without limitation, the corresponding obligation to pay for all charges incurred thereunder; (b) must be individually responsible for complying with all of the terms and conditions of his or her chosen rate plan; and (c) must follow the activation procedures and processes established by contractor from time to time.

6.2 **Employee Benefit Program Features.** Under the Employee Benefit Program, the following will apply: (a) Individual Responsibility Users may choose from any Service rate plan available to its corresponding Purchasing Entity (provided they qualify for the chosen rate plan); (b) Individual Responsibility Users will receive the Service Discounts provided for in this contract, which will be applied to their monthly invoices; (c) Individual Responsibility Users will receive the Equipment pricing set forth in this contract; (d) Service Revenue incurred by Individual Responsibility Users will contribute to the Measured Annual Service of All WSCA participants; and (e) Individual Responsibility Users and their usage contribute to the program eligibility requirements set forth in §2 above.

6.3 **WIN Advantage Exclusion.** Individual Responsibility Users' account information will not be included in WIN Advantage (as defined in §7 below).

6.4 **Purchasing Entities' Representation and Warranty.** Each Purchasing Entity represents and warrants that all its Individual Responsibility Users are current W-2 employees of such Purchasing Entity or the corresponding Participating Entity.

6.5 **Marketing Assistance.** Purchasing Entity will participate with contractor in efforts to obtain eligible employees' subscription to the Employee Benefit Program.

6.6 **Financial Responsibility.** Each Purchasing Entity is not liable for any charges incurred by Individual Responsibility Users under any IRU Service Agreement.

7. **Billing Services and Invoicing Options.** Each Purchasing Entity will receive certain billing analysis tools using the AT&T Wireless Information Navigator® Advantage software (together with all updates and modifications thereto "WIN Advantage"). With respect to Service, each Purchasing Entity will have the invoicing options set forth below.

7.1 **Corporate Invoicing.** Under corporate invoicing, contractor will provide an invoice each month through WIN Advantage consolidating all Corporate Responsibility Users' Service charges for the preceding monthly billing cycle. The applicable Purchasing Entity will promptly notify contractor of any Numbers to be added or deleted from such Purchasing Entity's invoice.

7.2 **Corporate Responsibility User Invoicing ("End User Invoicing").** Under End User Invoicing, contractor will provide an invoice each month to Purchasing Entity's Corporate Responsibility Users setting forth such Corporate Responsibility Users' Service charges for the preceding monthly billing cycle.

8. **Incorporation of Agreement.** The terms, conditions and defined terms set forth in all documents comprising the contract including, without limitation, this Program Description, together with any attachments thereto, apply throughout all such documents.

AT&T Wireless Mobile Internet Service Attachment

1. **AT&T Wireless Mobile Internet Service.**

Pursuant to the terms and conditions of this Exhibit, contractor will provide Service to Purchasing Entities through Equipment that accesses contractor's GSM/GPRS network ("Wireless Mobile Internet Service"). Except as specifically provided for in this Exhibit, the term "Service" under the Agreement will include Wireless Mobile Internet Service.

2. **Availability.** Wireless Mobile Internet Service is available for purchase in select Contractor Markets set forth in §13 below, as may be modified by contractor from time to time. Contractor may choose to block access to certain websites if, in contractor's sole discretion, contractor is experiencing excessive billing, collection or fraud problems with access to those sites.

3. **Rate Plans.** Purchasing Entities may choose from specific Wireless Mobile Internet Service rate plans found in the SES, as may be modified by contractor from time to time. These AT&T Wireless Mobile Internet Plans and AT&T Wireless Mobile Internet Plans with Voice are only available for use with Wireless Mobile Internet Equipment (see §4 below).

4. **Equipment.** With respect to Wireless Mobile Internet Service, Purchasing Entities may purchase available Wireless Mobile Internet Equipment the list of which is found in the SES, as may be modified by contractor from time to time. The term "Wireless Mobile Internet Equipment" means the SIM (Subscriber Identity Module) Card and wireless receiving and transmitting equipment that contractor has authorized to be programmed with a Number for use with Wireless Mobile Internet Service. Except as specifically provided for in this Exhibit, the term "Equipment" under the Agreement will also include Wireless Mobile Internet Equipment. Wireless Mobile Internet Equipment is incompatible with TTY, which may prevent emergency calls.

5. **Discounts.**

5.1 **Service Discounts.** Qualified Charges incurred in connection with Wireless Mobile Internet Service receive the Service Discount. Regardless of the method Purchasing Entity has selected to receive the Service Discount, Service Discounts related to Wireless Mobile Internet Service can only be applied through a direct credit to an End User's invoice.

5.2 **Equipment Pricing.** Contractor will provide Purchasing Entities with Wireless Mobile Internet Equipment at the prices set forth in the SES, as may be modified by contractor from time to time.

6. **Eligibility Requirements.** Subject to any restrictions set forth in the Agreement, Purchasing Entity's End Users, together with their respective Wireless Mobile Internet Service usage will count towards all Purchasing Entity's eligibility requirements under the Agreement.

7. **WIN Advantage Exclusion.** Wireless Mobile Internet Service information will not be included in WIN Advantage.

8. **Extranet Advantage Limitation.** Purchasing Entities will not be able to purchase, order or activate Wireless Mobile Internet Service or Wireless Mobile Internet Equipment through Extranet Advantage.

9. **Additional Terms and Conditions for Wireless Mobile Internet Service.** In addition to the terms and conditions of the corresponding Wireless Mobile Internet Service rate plans, the following terms and conditions apply to Wireless Mobile Internet Service:

9.1 **Charges.** When using contractor's network, for all incoming and outgoing voice Wireless Mobile Internet Service, the length of the call will be measured during the time that the call is connected to contractor's system, which is approximately from the time the End User presses "Send" or other key to initiate or answer a call until approximately the time the first party terminates the call. Purchasing Entity is responsible for all data usage sent through contractor's network and associated with the Wireless Mobile Internet Equipment; regardless of whether the Wireless Mobile Internet Equipment actually receives the information. In some cases contractor's network will re-send certain packets to ensure complete delivery, in these cases Purchasing Entity will be responsible for paying for the re-send packets. Utilizing compression solutions may or may not impact the amount of kilobytes for which Purchasing Entity is billed. Wireless Mobile Internet Service will be calculated and billed in kilobytes. A new data session starts every time an End User accesses contractor's data network. It ends when such End User leaves contractor's data network (e.g. by switching to voice mode or using a function outside of the data browser). In some cases, if the End User leaves contractor's data coverage area or accepts a voice call while in data mode, and resumes data activity within a brief period of time, the data session will continue. At the end of every data session, or once every 24 hours if a session lasts longer than 24 hours, contractor's system will create a billing record. The usage for that billing record will be rounded up to the next kilobyte and a cost will be associated with that billing record and rounded to the nearest cent. One megabyte equals 1024 kilobytes. One kilobyte equals 1024 bytes.

9.2 Use of Service and Equipment.

Purchasing Entities consent to receiving advertising, alerts and other broadcast messages. Each Wireless Mobile Internet Service can only have a limited number of active promotions and features. The Wireless Mobile Internet Equipment has been manufactured to operate exclusively with Wireless Mobile Internet Service provided by contractor. The Wireless Mobile Internet Equipment will only accept a SIM Card provided by contractor and cannot be activated with any other wireless carrier.

9.3 Equipment Compatibility. All Wireless Mobile Internet Equipment sold by contractor to Purchasing Entities will be compatible with contractor's Wireless Mobile Internet Service and will meet federal standards. To the extent Purchasing Entities obtain other wireless receiving and transmitting equipment that it intends to use with contractor's Wireless Mobile Internet Service, the respective Purchasing Entity is responsible for ensuring that such equipment is compatible with contractor's Wireless Mobile Internet Service and meets federal standards.

9.4 Billing for Wireless Mobile Internet Equipment. Wireless Mobile Internet Equipment can only be billed via a separate equipment invoice or "SEI."

10. General Terms and Conditions. In addition to the terms and conditions set forth elsewhere in the Agreement, the following terms and conditions apply to all Service:

10.1 Toll Free Calls. Contractor will charge 800, 866, 877, 888 and other "toll free" calls at domestic airtime or roaming rates. Purchasing Entities are liable for such charges under the Agreement.

10.2 Certain Taxes. A portion of the monthly charges may constitute charges for Internet access and other data-centric services that may not be taxable under the federal Internet Tax Freedom Act and/or applicable state's laws as currently in effect. If applicable, tax for this portion will not be added to the invoice.

10.3 Billing Cycle Issues. With respect to Service, billing cycle end dates may change from time to time. For Service rate plans where a billing cycle covers less than or more than a full month, contractor may make reasonable adjustments and prorations. If a selected Service calling plan or rate plan includes a predetermined allotment of services (for example, a predetermined amount of airtime, data, or text messages), unused allotment of such services from one billing cycle will not carry over to any other billing cycle.

11. Changes to Numbers. Purchasing Entities have no ownership rights to a Number, any Internet protocol address or any e-mail address provisioned by contractor to be used

with Service, and Purchasing Entities agree that contractor may change any such Number, Internet protocol address or e-mail address at any time with or without prior notice. The definition of the term "Number" under the Agreement is expanded to include data and/or messaging number(s) activated with Service or transferred under the Agreement.

12. Additional Disclaimers. In addition to the disclaimers set forth in the Agreement, CONTRACTOR MAKES NO REPRESENTATIONS OR WARRANTIES THAT SERVICE WILL BE ERROR-FREE, UNINTERRUPTED, OR FREE FROM UNAUTHORIZED ACCESS (INCLUDING THIRD PARTY HACKERS OR DENIAL OF SERVICE ATTACKS).

13. Contractor Markets Where Wireless Mobile Internet Service is Available. Wireless Mobile Internet Service is available in the following Contractor Markets, as may be modified by contractor from time to time:

- **Arizona:** Phoenix; Tucson
- **Florida:** Fort Lauderdale; Miami; Orlando; St. Petersburg; Tampa; West Palm Beach
- **Illinois:** Chicago
- **Michigan:** Detroit; Flint; Grand Rapids; Lansing
- **Missouri:** Kansas City
- **Nevada:** Las Vegas
- **Ohio:** Toledo
- **Oregon:** Portland
- **Washington:** Bellingham; Bremerton; Centralia; Ellensburg; Olympia; Richland-Kennewick; Seattle; Spokane; Tacoma; Yakima

14. Incorporation of Agreement. The terms, conditions and defined terms set forth in all documents comprising the Agreement including, without limitation, this Exhibit, apply throughout all such documents.

Western States Contracting Alliance

AT&T Wireless

AT&T Wireless Business Solutions - BlackBerry™ Attachment

1. AT&T Wireless Business Solutions – BlackBerry (the “BlackBerry Solution”). Pursuant to the terms and conditions of the Agreement and this Attachment, Contractor (also referred to herein as “AWS”) will provide the BlackBerry Solution to Purchasing Entities and their respective End Users through Equipment that accesses the AT&T Wireless GSM™/GPRS network. Each such Purchasing Entity understands and agrees that the BlackBerry Solution is a type of AT&T Wireless Mobile Internet Service; **accordingly, to the extent Purchasing Entity orders, pays for, or otherwise receives the benefit of the BlackBerry Solution, Purchasing Entity will also be bound by the terms and conditions of the AT&T Wireless Mobile Internet Service Attachment which is part of this Agreement.** Such terms and conditions of the AT&T Wireless Mobile Internet Service Attachment (including, without limitation, terms and conditions relating to service availability, program eligibility requirements, and WIN Advantage™ software and Extranet Advantage restrictions) apply to the provision by AWS of the BlackBerry Solution unless otherwise stated herein. Except as specifically provided for in this Attachment, the term “Service” under the Agreement will include the BlackBerry Solution, which in turn includes the Third Party Software (as defined in §2 below) and the Professional Services (as defined in §3 below).

2. Third Party Software. The BlackBerry Solution incorporates and utilizes third party software. Purchasing Entity understands that, in order to subscribe to the BlackBerry Solution, Purchasing Entity must have, and comply at all times with the terms and conditions of: (a) the BlackBerry Enterprise Server (Microsoft® Exchange® v2.1 or higher or Lotus® Domino™ v2.0 or higher) for Purchasing Entity’s network server, as well as Client Access Licenses for each of Purchasing Entity’s End Users, and (b) the BlackBerry Desktop Software for each of Purchasing Entity’s End Users. Purchasing Entity may purchase the BlackBerry Enterprise Server and Client Access Licenses from AWS; Purchasing Entity will receive the BlackBerry Desktop Software from AWS as part of the BlackBerry Solution. In addition, Purchasing Entity may purchase, on an annual basis, BlackBerry Software Upgrade Assurance in order to be eligible to receive periodic upgrades to the BlackBerry Enterprise Server and Client Access Licenses. The BlackBerry Enterprise Server, Client Access Licenses, BlackBerry Desktop Software, and BlackBerry Software Upgrade Assurance will be referred to collectively in this Attachment as the “Third Party

Software”. Pricing for the Third Party Software is described in the AWS printed materials associated with the BlackBerry Solution as may be modified by AWS from time to time, all of which is incorporated herein by reference (the “BlackBerry Collateral”). Purchasing Entity understands and agrees that, as long as Purchasing Entity subscribes to the BlackBerry Solution, Purchasing Entity will be bound by the terms and conditions of the Third Party Software, which are incorporated herein by this reference. Such terms and conditions may be found on the compact discs containing the Third Party Software and/or associated documentation. In the event that Purchasing Entity fails to comply with the terms and conditions of the Third Party Software, such failure will be deemed a default of a material provision of the Agreement, and AWS will be entitled to terminate the Agreement.

3. Professional Services. At Purchasing Entity’s request, AWS or its authorized contractors will provide BlackBerry Enterprise Server installation and other professional services relating to the BlackBerry Solution (collectively, “Professional Services”) to Purchasing Entity. Pricing, terms and conditions for the Professional Services are described in the BlackBerry Collateral.

4. Rate Plans. To use the BlackBerry Solution Purchasing Entity must subscribe to Wireless Data Service under select “BlackBerry Access Plans.” These BlackBerry Access Plans are GSM™/GPRS rate plans within each AWS Market that are found in the SES and/or at the AT&T Wireless WSCA Site, as may be modified by AWS from time to time. BlackBerry Access Plans are only available for use with a compatible BlackBerry Wireless Handheld™ device (a “BlackBerry Handheld”). As part of the BlackBerry Solution, Purchasing Entity may also subscribe to Voice Service under an AT&T Wireless GSM Local Network Plan as set forth in the SES and/or the AT&T Wireless WSCA Site, and as may be modified by AWS from time to time.

5. Equipment. In order to subscribe to the BlackBerry Solution, Purchasing Entity must purchase a Blackberry Handheld from AWS for each of its End Users. The list of available BlackBerry Handhelds is found in the SES and/or at the AT&T Wireless WSCA Site, as may be modified by AWS from time to time. Except as specifically provided for in this Attachment, the term “Wireless Mobile Internet Equipment” (as defined in the AT&T Wireless Mobile Internet Service Attachment) will include the BlackBerry Handheld.

6. Discounts.

6.1 Service Discounts.

6.1.1 Measured Annual Service

Discount. Qualified Charges incurred in connection with Voice Service under the BlackBerry Solution will receive the Service Discount described in the Agreement.

Notwithstanding the provisions of the Agreement including, without limitation, the AT&T Wireless Mobile Internet Service Attachment, Purchasing Entity understands and agrees that Qualified Charges incurred in connection with Wireless Data Service under the BlackBerry Solution will not receive the Service Discount.

6.1.2 Service Discount Application.

Service Discounts related to Qualified Charges in connection with Voice Service under the BlackBerry Solution can only be applied through a direct credit to an End User's invoice.

6.1.3 Definitions. For purposes of the Agreement, the definition of "Qualified Charges" shall not include charges for the Third Party Software and the Professional Services. Rather, any and all such charges shall be included in the definition of "Non-Qualified Charges" set forth in the Program Description.

6.2 Equipment Discounts. Notwithstanding anything to the contrary in the Agreement, Purchasing Entity will not receive the Equipment discount set forth in the SES with respect to BlackBerry Handhelds.

7. Employee Benefit Program. Individual Responsibility Users subscribing to the BlackBerry Solution will also be bound by the terms and conditions of all applicable Third Party Software (including, without limitation, the BlackBerry Desktop Software).

8. Additional Terms and Conditions for the BlackBerry Solution. In addition to the terms and conditions of the specific AT&T Wireless GSM/GPRS rate plans available for the BlackBerry Solution, and to the terms and conditions set forth elsewhere in the Agreement, the following terms and conditions apply specifically to the BlackBerry Solution:

8.1 Charges. In addition to the provisions of the Master Price Agreement regarding payment of charges, Purchasing Entity acknowledges and agrees that it will also pay all charges associated with the BlackBerry Solution, including, without limitation, all charges related to the Third Party Software and the Professional Services.

8.2 Voice Service Under The BlackBerry Solution. When using the AT&T Wireless GSM/GPRS network, for all incoming and outgoing Voice Service, the length of the call will be measured during the time that the

call is connected to AT&T Wireless' system, which is approximately from the time the End User initiates or answers a call, whether through the Trackwheel navigational tool or other appropriate selection mechanism, until approximately the time the first party terminates the call.

8.3 Equipment Compatibility. The BlackBerry Handhelds sold by AWS to Purchasing Entity will be compatible with the BlackBerry Solution and will meet federal standards.

8.4 Limited Warranty for Professional Services. Notwithstanding anything to the contrary in the Agreement, AWS warrants that the Professional Services will be performed in a professional and workmanlike manner. This limited warranty does not apply to conditions resulting from improper use, external causes (including, without limitation, services or modifications not performed by AWS), or operation outside the environmental and other parameters specified for the BlackBerry Enterprise Server.

8.5 Additional Limitations of Liability.

8.5.1 Professional Services.

Notwithstanding anything to the contrary in the Agreement, in no event shall the aggregate liability of AWS to Purchasing Entity for breach of §8.4 above or otherwise arising from, out of, relating to, or in connection with the Professional Services (including, without limitation, any third party claims) exceed the amounts paid by Purchasing Entity to AWS for the Professional Services.

8.5.2 Third Party Software.

Notwithstanding anything to the contrary in the Agreement, in no event shall the aggregate liability of AWS to Purchasing Entity arising from, out of, relating to, or in connection with the Third Party Software (including, without limitation, any third-party claims) exceed the amounts paid by Purchasing Entity to AWS for the Third Party Software.

8.6 Privacy. In addition to the provisions of the Agreement, Purchasing Entity understands and agrees that: (a) although the law generally prohibits the unauthorized interception of and/or access to electronic data, privacy cannot be guaranteed; and (b) AWS will not be liable for any unauthorized interception of and/or access to electronic data.

8.7 Purchasing Entity's Notices to End Users. In addition to the provisions of the Agreement relating to Service and Equipment generally, Purchasing Entity specifically agrees that it will advise all of its End Users that they must read all collateral materials concerning the BlackBerry Solution and use of the BlackBerry Handheld, including, without limitation, the AT&T Wireless Welcome Guide at

www.attwireless.com/welcomeguide/terms, the rate plan collateral, and any documentation related to the BlackBerry Handheld and the Third Party Software. AWS will make copies of such materials available to Purchasing Entity upon request. Purchasing Entity will also provide to End Users, and advise End Users to read, any additional materials relating to the BlackBerry Solution reasonably requested by AWS from time to time to be so provided.

9. Incorporation of Agreement. The terms, conditions and defined terms set forth in all documents comprising the Agreement (including, without limitation, this Attachment) apply throughout all such documents.